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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,296	09/12/2001	Kenichi Miyoshi	L9289.01178	2436
7590	01/07/2005		EXAMINER	
Stevens Davis Miller & Mosher Suite 850 1615 L Street NW Washington, DC 20036			MEEK, JACOB M	
			ART UNIT	PAPER NUMBER
			2637	

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/936,296	MIYOSHI ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Jacob Meek	2637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
**THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 12 September 2001.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1 - 9 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,2 and 7-9 is/are rejected.  
 7) Claim(s) 3 - 6 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 12 September 2001 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date 9/01, 2/03.
- 4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

**DETAILED ACTION*****Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 2, 7, 8, and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Oishi et al (US Patent 6,028,894).

With regard to claim 1, Oishi teaches an SIR measurement apparatus comprising desired wave detection means (desired signal detection means, see figure 7, 51, 52, 53 and column 8, lines 9 – 19), interference wave detection means for detecting interference wave power from the received signal (see Figure 7, 54, 55, 56 and column 8, lines 20 – 29 where this is interpreted as equivalent functionality), averaging means for averaging an output of interference power detecting means over a plurality of processing units (see Figure 13, 52, 55, 56, 58 and column 8, lines 9 – 12 where averaging means described is interpreted as equivalent), control means for detecting a variation quantity of interference power (see column 10, line 43 – column 11, line –15 where these embodiments are interpreted as equivalent functionality) for varying averaging intervals according to measure interference power (see Figure 13, 58 and column 10, lines 43 – 57), SIR calculation means for obtaining a ratio of the desired power to output of averaging means (see figure 7, 57 and column 8, lines 24 – 28).

With regard to claim 2, Oishi teaches an apparatus where averaging means averages the output of interference detection means for averaging intervals different from each other (see column 10, lines 43 – 57 where this is interpreted as equivalent functionality), and control means for the selection of averaging means operation (see figure 13, Tm and column 10, lines 43 – 57 where this is interpreted as equivalent functionality).

With regard to claim 7, Oishi teaches the limitations of claim 1 with the additional limitation of being used in a mobile station (see column 1, lines 23 – 53).

With regard to claim 8, Oishi teaches the limitations of claim 1 with the additional limitation of being used in a base station (see column 1, lines 23 – 53).

With regard to claim 9, the steps claimed as method is nothing more than restating the function of specific components of the apparatus as claimed above and therefore would have been obvious considering the aforementioned rejection for the apparatus claim 1.

### ***Allowable Subject Matter***

2. Claims 3 – 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Other Cited Prior Art***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Muszynski (US Patent 5,623,484), Popovic (US Patent 6,292,519), Blanc (US Patent 6,430,398), Amezawa (US Patent 6,438,362), Gunnarsson et al (US Patent 6,493, 591), and Stellakis (US Patent 6,545,986) all disclose variation of SIR measurement means which appear germane to applicant's field of invention.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Meek whose telephone number is (571)272-3013. The examiner can normally be reached on 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel can be reached on (571)272-2988. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMM

*J. Meek*

*J. Patel*

JAYANTI PATEL  
SUPERVISORY PATENT EXAMINER